

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ANDRE GARFIELD,

Petitioner,

v.

ORDER
0-2-CV-498A

SUPERINTENDENT J. McCOY,

Respondent.

On July 12, 2002, petitioner Andre Garfield filed the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On October 3, 2002, the parties filed a consent to proceed before a United States Magistrate Judge. On March 23, 2006, United States Magistrate Judge Victor E. Bianchini filed a Decision and Order denying petitioner's § 2254 petition. Judgment was entered in favor of the respondent on March 24, 2006. On April 4, 2006, petitioner filed a notice of appeal with the Second Circuit Court of Appeals. On April 6, 2006, defendant filed objections with this Court to Magistrate Judge Bianchini's Decision and Order.

Petitioner's objections to Magistrate Judge Bianchini's dismissal of his habeas corpus petition must be dismissed as this Court lacked jurisdiction to hear such an appeal. Pursuant to 28 U.S.C. § 636(c)(3), petitioner's appeal lies directly with the Second Circuit Court of Appeals and not with this Court. Accordingly, petitioner's objections are dismissed.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: May 25, 2006